



State of Tennessee Department of Children's Services

Administrative Policies and Procedures: 14.9

Subject: Child Protective Services Emergency and Non-Emergency Removals

Supersedes: DCS 14.9, 04/01/01

Local Policy: No
Local Procedures: No
Training Required: No

Approved by:

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Application

To All Department of Children's Services Case Managers, Team Leaders, Team Coordinators, And DCS Legal Counsel Performing Tasks In The Child Protective Services Program.

Authority:

TCA 37-1-406, 37-1-404; 37-1-405; 37-1-606; 37-1-607; 37-1-608;
37-1-610; 37-5-106

Policy

If it is not possible to ensure the safety of the child in his/her home, with relatives, or with other appropriate caretakers, the case manager shall consult with team leaders and legal staff, taking actions necessary to petition the Juvenile Court for the child to be placed in state custody. DCS may file petitions for emergency or non-emergency removal.

Procedures

A. Reasonable efforts

1. Prior to any efforts to place a child in state custody, the case manager must attempt all reasonable efforts to ensure the safety of the child in his/her home or community, unless it is not in the best interest of the child to do so. These efforts may include:
 - a) Enacting a safety plan;
 - b) Provision of services to reduce risks; and
 - c) Identifying relatives or other potential caretakers who are willing to provide for the safety of the child.

2. Efforts to reduce risk and avoid removal shall be documented in the case recording and the Affidavit of Reasonable Efforts.

B. Legal procedures for removals

The DCS case manager shall:

1. Consult with the team leader and DCS legal counsel regarding authorization to file a petition and to physically remove the child from the home of the present caretaker;
2. Provide all factual information and risk issues necessary for the team leader and DCS attorney to consider the situation and make an informed decision with the case manager;
3. Discuss with the attorney whether or not the petition will allege severe abuse;
4. Provide any written documentation required by the legal counsel to construct and file the petition;
5. Serve as the petitioner;
6. Prepare for and testify in all court proceedings pertaining to the removal.
7. The DCS attorney shall draft and file the petition as per local procedures established by the Juvenile Court.

C. Emergency removals

1. If the case manager considers a child to be at immediate risk of harm, the above procedures shall be carried out on an emergency basis in conjunction with the physical removal of the child from the home.
2. When petitions for emergency removals are filed, there shall be a court hearing within 72 hours of the removal to consider if there was just cause to conduct the emergency removal. If the court upholds the emergency removal, a future court date will be set to consider the Department's petition and to make decisions on the adjudication and disposition of the case.

D. Non-emergency removals

1. A non-emergency removal is a legal proceeding where DCS petitions to remove a child from the home but does not ask for the child to be removed immediately. This type of action is appropriate when the high risk is not currently present due to the fact that a plan to establish the child's safety is in place for a limited period of time and all parties continue to be cooperative. Refer to DCS Policy 14.8, *Child Protective Services Safety Plan and Non-Custodial Petitions*. The time limited plan makes it possible for the child to safely remain in the current setting until all parties can present their information in court.

2. The decision to file an emergency or non-emergency petition shall be made in concert with the team leader and DCS legal counsel.

E. Removal of children in joint custody/or on trial visit

All legal procedures listed above for removal of children also apply to the following situations:

1. Children who are in the legal custody of DCS but have been placed back in their homes on a trial visit.
2. Children who are in the legal custody of DCS but who are in the physical custody of other caretakers as pursuant to a court order.

F. Physical removal of a child

When a CPS case manager physically removes a child from parents or caretakers to place the child in state custody, the following procedures shall apply:

1. The case manager shall obtain proper legal authority from DCS legal counsel and/or the court to enact the removal. Refer to section B. above and adhere to local protocols established with local courts and DCS legal counsel.
2. The case manager shall assess the need for law enforcement to participate in the removal process and call them as needed. This decision should be based on assuring the safety of the child, the case manager, and any other individuals involved.
3. The case manager shall provide the parent/caretaker with a formal written notification of the removal or follow approved local practice. If the child is in a location other than the home at the time of the removal (e.g. school) then a copy of this written notification shall be given to the temporary caretaker in that location. This may be a copy of the signed petition or other document as per local protocols.
4. At the time this document is provided, the case manager shall acquire or make plans to acquire the child's clothing, toys, medications, and any other items necessary for the child's well being.
5. The case manager shall ask the parents about any medical conditions or behaviors of the child. The case manager shall share all information about the child's medical conditions or behaviors with the new caretakers and the custodial case manager.
6. The case manager shall ensure that the child arrives at the placement, which may be a foster home, licensed childcare facility, or relative placement. The case manager shall share all known medical and behavioral history with the new caretakers or with the person transporting the child to the placement.

7. Before the removal or as soon as possible thereafter, the case manager shall explain to the child what has happened and why, in terms that are not accusatory and do not malign the parents. Additionally, the following items shall be discussed if appropriate, according to the child's age and developmental level:
 - a) Where the child will be going and what to expect in that setting;
 - b) Under what conditions he/she may visit with the parent;
 - c) The court process including court hearings and permanency plan;
 - d) Any additional clothing, toys, special items, or medications that must be retrieved from the home; and
 - e) The child's feelings about the removal and any other issues the child wishes to discuss.
 - f) The names of other relatives the child would want to contact or who might be resources for the child.

**G. Placement with
relatives or other
individuals**

1. Relatives or other individuals shall be considered as placement resources if those persons can ensure the safety of the child and if those potential placements comply with the Department's standards for placement as stated in DCS policy 16.4, *Foster Home Training and Approval Process*.
2. Prior to placing a child in the home of relatives or family friends, the CPS or home county case manager shall conduct a home study to assess the placement's ability to provide for the child. The home study shall include:
 - a) Visit to the home to ensure that the environment is safe and has sufficient space for the child;
 - b) Face-to-face interview with the potential caretaker and all others in the home to assess their ability to gain access to the child;
 - c) Assessment of the potential caretaker's ability to resist the parent's attempts to gain access to the child;
3. Conduct background check with DCS records the next working day and criminal background check when possible.
4. After conducting the above activities, and before placing the child, the case manager shall acquire from the regional administrator or his/her designated team coordinator, a waiver and permission to place the child in this setting on an emergency basis.
5. In situations where a foster home has been approved on an emergency basis, usual approval requirements including

foster parent training shall be completed after the initial approval. Refer to DCS policy 16.4, *Foster Home Training and Approval Process* for further information on long-term approval of the foster home.

Forms/Templates

None

Collateral Documents

Suggested Format for Home Study

Standards

None